

218292
2009-331-5

ALLEN AND EAKES

ATTORNEYS AT LAW

P.O. BOX 1405

ANDERSON, S. C. 29622

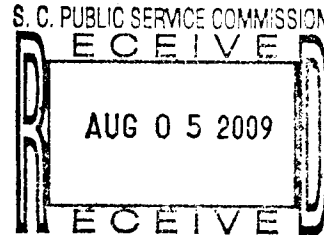
RICHARD K. ALLEN, JR.*
JAMES S. EAKES*

THOMAS ALLEN (1881-1963)
RICHARD K. ALLEN (1921-1982)

* CERTIFIED CIVIL COURT MEDIATOR

TEL. (864) 224-1681
114 WEST ORR STREET
ZIP 29625
FAX (864) 231-8411

July 28, 2009



VIA - FIRST CLASS MAIL

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

RE: Application of Jacabb Utilities, LLC for approval of a contract with Love's Travel Stops and Country Stores, Inc. to service Love's Travel Stop and Country Store

Dear Mr. Terreni:

Enclosed for filing are the original and ten (10) copies of Application of Jacabb Utilities, LLC in the above reference matter. I would appreciate your acknowledging receipt of this document by date-stamping the extra copy of this letter that is enclosed and returning it to me via first class mail.

By copy of this letter, I am serving the Office of Regulatory Staff and enclose a certificate to that effect. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

ALLEN & EAKES

A handwritten signature in cursive script, appearing to read "James S. Eakes".

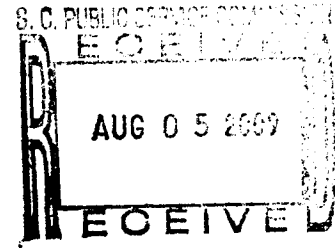
James S. Eakes

Enclosure

cc: Dukes Scott, Executive Director, ORS
Stephen R. Goldie, Jacabb Utilities, LLC

BEFORE
THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA
DOCKET NO. 2009-331 - S



IN RE:

Application of Jacabb Utilities, LLC for
approval of a contract with Love's Travel
Stops and Country Stores, Inc. to serve the
Love's Travel Stop and Country Store

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the
Application by placing same in the care and custody of the United States Postal Service
with first class postage affixed thereto and addressed as follows:

Dukes Scott
Office of Regulatory Staff
Post Office Box 11263
Columbia, SC 29211

Sheila J. Tinsley

Seneca, South Carolina
This 4th day of August 2009

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-331-S



IN RE:

Application of Jacabb Utilities, LLC for)
approval of a contract with Love's Travel)
Stops and Country Stores, Inc. to serve)
the Love's Travel Stop and Country Store)
_____)

APPLICATION

Jacabb Utilities, LLC ("Applicant" or "Utility") hereby submits a contract between it and Love's Travel Stops and Country Stores, Inc. ("Developer") for consideration by this Honorable Commission under Vol. 26 S.C. Code Ann. Regs. R.R. 103-541 (Supp.2007). In support of this Application, Applicant would respectively show as follows:

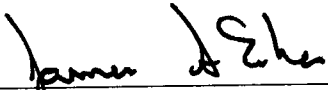
1. Applicant is a public utility currently authorized to operate water and wastewater systems under the jurisdiction of the Commission in Oconee County, as well as certain other counties in this state. Its corporate charter is presently on file with the Commission and an appropriate bond has been posted with same.
2. The Applicant seeks approval of an agreement entered into between Applicant and the Developer dated July 31, 2008 ("Agreement"), a copy of which is attached hereto and incorporated herein by reference as Exhibit "A". Applicant will provide service to the proposed development pursuant to all of the terms and conditions as approved by the Commission.

229
#1024

3. Pursuant to this agreement, Applicant proposes to serve the Love's Travel Stop and Country Store which will include an Arby's Restaurant, restrooms and showers from which the total sewage flow would not exceed 10,000 gallons per day (gpd). The Agreement provides, *inter alia*, that Developer will construct all of the necessary sewer facilities ("Facilities") required to serve the Property, acquire all necessary easements and rights-of-way ("Easements") and convey such Facilities and Easements to Applicant. Performance of the Agreement is conditioned upon its approval by this Commission.
4. Pursuant to Article III, §1 of the Agreement, Applicant has agreed to supply all customers within the Love's Property with adequate and customary sanitary sewer service.
5. Applicant submits that the public convenience and necessity will be served by the approval of this Agreement. Applicant further submits that no hearing in this matter is required.
6. The Developer will be the single customer for the Applicant at the Love's Travel Stop and Country Store. The Applicant therefore requests the contract between the Developer and Applicant be approved for the Property's sewer service for the Love's Travel Stop and Country Store.
7. All correspondence and communications regarding this matter should be sent to the undersigned.

WHEREFORE, having fully set forth its Application, Applicant prays that the Agreement, be approved; that a hearing on the within matter be waived or review of the within application be expedited, and that Applicant be granted such other and further relief as the Commission may deem just and proper.

119
#2044



James S. Eakes
Allen and Eakes
PO Box 1405
Anderson, SC 29622
(864) 224-1681

Attorney for Applicant

Anderson, South Carolina

This 28 day of July 2009

115
#3054

“EXHIBIT A”

Agreement for Sewer Services

122
#454

AGREEMENT FOR SEWER SERVICES
LOVE'S TRAVEL STOPS AND COUNTRY STORES, INC.
ANDERSON and OCONEE COUNTIES, SC

This Agreement is entered into this 31st day of July, 2008 by and between Love's Travel Stops and Country Stores, Inc., (hereinafter referred to as "Developer"), and Jacabb Utilities, LLC, a South Carolina corporation (hereinafter referred to as "Utility").

WITNESSETH

WHEREAS, Developer is the owner of or is duly authorized to act on behalf of the owners of certain real estate located on Old Dobbins Bridge Road at SC Exit 4 on I-85 in Anderson and Oconee Counties, South Carolina, hereinafter referred to as the "Love's Property" (see "Exhibit 1"); and,

WHEREAS, Developer desires to develop Love's Travel Stop and Country Store which will include an Arby's Restaurant, restrooms and showers from which the total sewage flow would not exceed 10,000 gallons per day (gpd) based on the South Carolina Department of Health and Environmental Control (SC DHEC) unit contributory guidelines; and,

WHEREAS, Utility is a public utility engaged in the business of furnishing sewer services to the public in its designated areas located in South Carolina, and subjected to Section 58-5-210 of the Code of Laws of S.C., 1976 which provides: "That the Public Service Commission, is hereby, to the extent granted, vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, observed and followed by every public utility in this State, and the State hereby asserts its rights to regulate the rates and services of every public utility as herein defined."; and,

WHEREAS, Developer desires Utility to provide wastewater utility service within the Love's Property and Utility desires to provide wastewater utility service according to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants as hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

Representations and Warranties of Developer

Developer represents and warrants that:

1. Developer is the owner of or is duly authorized to act on behalf of the owners of the Love's Property; and,
2. Developer will convey to the Utility or otherwise vest in the Utility such right, title and interest in and to such real estate as may be reasonably necessary to permit the Utility to carry out the terms and conditions of this Agreement; and,
3. Developer will convey to Utility or provide by recorded subdivision plats such easements or rights of way as the Utility may reasonably require for the Utility's performance of its obligations under this Agreement. Any such plats, conveyances or licenses will be in form reasonably satisfactory to Utility's legal counsel.

ARTICLE II

Representations and Warranties of Developer

1. Neither Developer nor any entity or individual affiliated with Developer has executed or will execute any agreement with any lot purchaser in the Love's Property, or any other parties or made any representations to any such purchasers or other parties whereunder such purchaser or other parties have acquired any interest in Facility to be installed under this Agreement.

ARTICLE III

Utility Services, Connection Fees, Rates and Charges

1. Upon installation of the Facilities, Utility agrees to supply all customers within the Love's Property with adequate and customary sanitary sewer service, and to operate, maintain and repair all Facilities as indicated herein, after acceptance by Utility and issuance of operational approvals by all regulatory authorities.
2. Developer agrees to pay Utility a rate of \$875 per month for the Love's Property's sewer service. The sewer rate of \$875 will not be increased for a period of 5 years.

ARTICLE IV

Public Service Commission Approval

1. Within thirty (30) days following the execution of this Agreement, Utility will file a petition with the Commission requesting approval of this Agreement, if necessary. All terms and conditions contained herein are subject to Utility receiving said approvals from the Commission.

ARTICLE V

General

1. Except as provided in this Agreement, neither party to this Agreement shall be liable to the other for failure, default or delay in performing any of its obligations hereunder, if such failure, default or delay is caused by strikes or other labor problems, by forces of nature, unavoidable accident, fire, acts of the public enemy, interference by civil authorities, acts or failure to act, decisions or order or regulations of any governmental or military body or agency, office or commission, delays in receipt of materials, or any other cause, whether of similar or dissimilar nature, not within the control of the party affected and which, by the exercise of due diligence, such party is unable to prevent or overcome, except as otherwise provided for herein. Should any of the foregoing events occur, the parties hereto agree to proceed with diligence to do what is reasonable and necessary so that each party may perform its obligations under this Agreement.
2. Developer acknowledges that Utility's obligation to provide utility service is expressly conditioned upon the parties' mutual understanding that Utility has no obligation to install, upgrade or expand any of the wastewater treatment facilities to serve additional residential or commercial units at the Love's Property.
3. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance by either party shall not be construed as a general waiver or relinquished on its part of any such provisions, but the same shall, nevertheless, be and remain in full force and effect.
4. The representations, warranties and agreements contained herein shall survive, and continue in effect. Utility agrees to indemnify Developer, its successors and assigns, and hold Developer harmless against any loss, damage, liability, expense or cost accruing or resulting from any misrepresentations or breach of any representation, warranty or agreement on the part of Utility under this Agreement; Developer agrees to indemnify Utility, its successors and assigns, and hold it and them harmless against any loss,

damage, liability, expense or cost of Utility, accruing or resulting from any misrepresentation or breach of any representation, warranty, or agreement on the part of Developer under this Agreement or from any misrepresentation in or material omission from any certificate or other document furnished or to be furnished to Utility by Developer.

5. This Agreement sets forth the complete understanding between Developer and Utility, and any amendments hereto to be effective must be made in writing.
6. Notices, correspondence and invoicing required hereunder shall be given to Developer and to Utility at the following addresses, or at any other addresses designated in writing by either party subsequent to the date hereof:

If to Utility:

Jacabb Utilities, LLC
210 W. North Second Street
Seneca, SC 29678
ATTN: Steve Goldie
Managing Owner

If to Developer:

Love's Travel Stops and Country Stores, Inc.
10601 N. Pennsylvania Ave.
Oklahoma City, OK 73120
ATTN: Rick Shuffield
Director of Real Estate and Development

Delivery when made by registered or certified mail shall be deemed complete upon mailing. Delivery by overnight courier shall be deemed complete when delivered.

7. This Agreement may not be assigned by Developer without the written approval of Utility, which approval shall not be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
8. This Agreement shall be governed by the laws of the State of South Carolina.
9. If this Agreement is not executed prior to _____ then the terms and conditions contained herein will be waived, with no further obligations or responsibilities to either party.

IN WITNESS WHEREOF, the parties hereto have set their seals the
day and year above first written.

Jacabb Utilities, LLC

By: [Signature]

Print Name

Its: Managing Owner

Attest:

[Signature]
Admin Assistant

Love's Travel Stops and Country Stores, Inc.

By: [Signature]

Print Name

Its: Director of Real Estate and Development

Attest:

[Signature]
Assistant Secretary

EXHIBIT 1

PROPERTY MAP

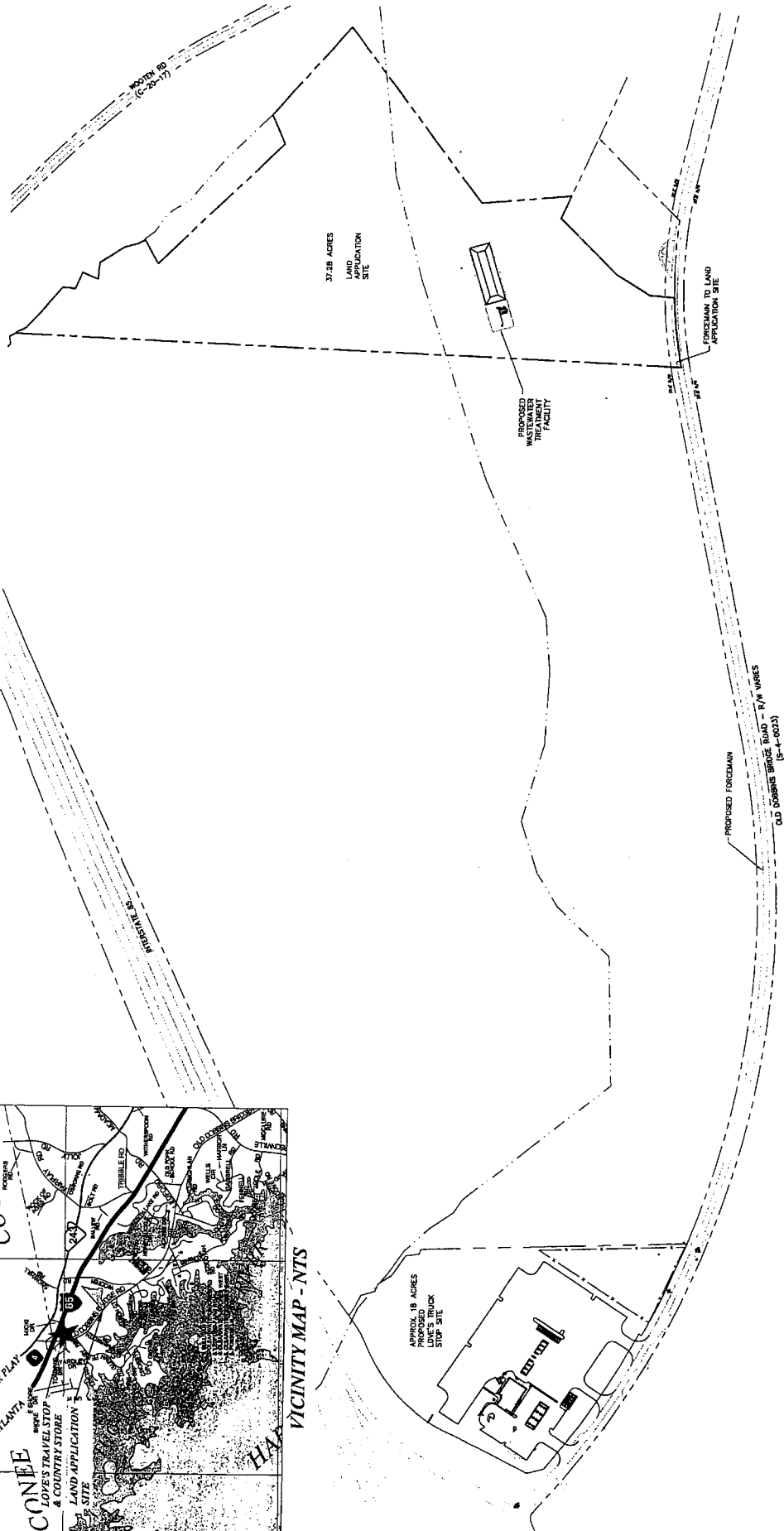
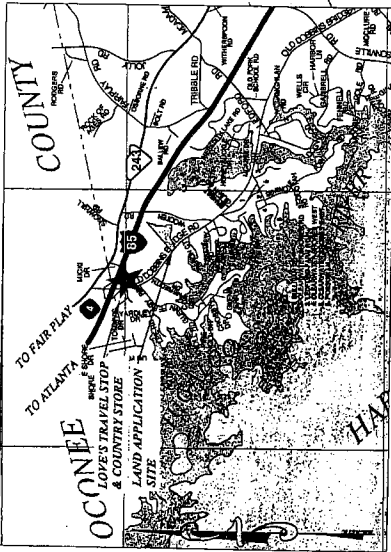


FIGURE 1
OVERALL SITE LAYOUT
WASTEWATER TREATMENT PLANT LAYOUT
INTERSTATE 85 OF SOUTH CAROLINA, EXIT 4
ANDERSON COUNTY

